

FAIRFAX COUNTY CIRCUIT COURT

RESTORATION OF DRIVING PRIVILEGES BY PERSONS DECLARED HABITUAL OFFENDERS AND/OR BY PERSONS CONVICTED OF THIRD OFFENSE DRIVING WHILE INTOXICATED BROCHURE

PETITION FOR RESTORATION OF DRIVING PRIVILEGE

**By Persons Previously Declared a Habitual Offender
and/or**

By Persons Convicted of a Third Offense Driving While Intoxicated

Any person declared to be a habitual offender or whose license to operate a motor vehicle has been revoked in the Commonwealth of Virginia may, after expiration of the applicable statutory period, petition the court in which he or she was found to be a habitual offender or the circuit court of the county in which he or she resides to restore his or her privilege to drive a motor vehicle in the Commonwealth of Virginia.

Applicable Code Sections:

HABITUAL OFFENDER: §46.2-358, §46.2-359, §46.2-360, §46.2-361

DWI-THIRD OFFENSE: ?46.2-391

You must be eligible to file a Petition for Restoration or Restricted License. To determine if you are eligible to file for restoration or restricted license, please refer to your Division of Motor Vehicles Transcript. Upon filing your petition a hearing may not be scheduled until at least 30 days have passed from the date the petition was filed and served on both the Division of Motor Vehicles and the Commonwealth Attorney.

The Petitioner is responsible for making sure that the documents are complete and in the proper jurisdiction when filed with the Clerk. You are strongly encouraged to engage an attorney to represent your interests. These forms are not provided as or intended to replace legal assistance. The Clerk's Office is not responsible for determining which form must be utilized in filing your petition nor in which jurisdiction the petition must be filed.

WHAT DOCUMENTS NEED TO BE PREPARED/AND OR REQUIRED FOR FILING:

- 1. Petition setting forth the legal basis for Restoration or Restricted Operator's license.**
- 2. Current Driving Transcript from the Division of Motor Vehicles**
- 3. Friday Motions Day Praecept to set the hearing date**
- 4. Virginia Alcohol Safety Action Program report (VASAP), if applicable**
- 5. Order for Restoration or Restricted Operator's License**
- 6. If you are requesting a Restricted Operators License, you must complete the Restricted Operator's License Application Form.**

HOW DO I DETERMINE IF I AM ELIGIBLE TO FILE FOR RESTORATION:

To determine if you are eligible to file a Petition for Restoration or Restricted License you must obtain a transcript of your driving record from the Division of Motor Vehicles.

To obtain a current copy of your driving transcript you must contact:

**Division of Motor Vehicles
1-866-DMV-LINE (1-866-368-5463)
or visit the internet site at
WWW.DMV.STATE.VA.US**

DO I NEED A VIRGINIA ALCOHOL SAFETY ACTION PROGRAM EVALUATION (VASAP):

A VASAP evaluation must be obtained for any person seeking Restoration or a Restricted license if any of the convictions on your driving transcript which led to the suspension of your license were alcohol related in accordance with §46.2-360(1) and §46.2-391 of the Code of Virginia, as amended.

To obtain a VASAP evaluation, you must contact:

**FAIRFAX COUNTY ALCOHOL SAFETY ACTION PROGRAM
10398 DEMOCRACY LANE, SUITE 200
FAIRFAX, VIRGINIA 22030
703-279-2600**

The VASAP evaluation may be filed at the same time as your petition. If the evaluation report is unavailable at the time of filing, the report must be submitted to the court at least ten days prior to the hearing date. The evaluation must be dated no earlier than ninety (90) days before the hearing date or the Court will generally require the report to be updated.

WHICH PETITION/ORDER FORMS IN THIS PACKET MUST I PREPARE FOR FILING:

Forms CC1465(B) and 1465(D):

Are for Persons who have been adjudicated as a Habitual Offender.

Forms CC1470 and 1471:

Are for Persons who have a Third Offense Driving While Intoxicated conviction.

If you are a habitual offender, but you have not been convicted of a Third Offense Driving While Intoxicated:

Petition for Restoration of Driving Privilege-Habitual Offender (Form CC-1465(B))

Order for Restoration of Driving Privilege – Habitual Offender (Form CC-1465(D))

If you are a habitual offender and you have been convicted of a Third Offense Driving While Intoxicated:

Petition for Restoration of Driving Privilege-Habitual Offender (Form CC-1465(B))

Order for Restoration of Driving Privilege – Habitual Offender (Form CC-1465(D))

Petition for Restoration of Driving Privilege-Third Offense (Form CC1470)

Order for Restoration of Driving Privilege-Third Offense (Form CC1471)

If you are NOT a habitual offender but have been convicted of a Third Offense Driving While Intoxicated:

Petition for Restoration of Driving Privilege-Third Offense (Form CC1470)

Order for Restoration of Driving Privilege-Third Offense (Form CC1471)

Forms in this packet with the exception of the Orders (CC1465(D) & CC 1471) can be accessed on the Courts Web Site at:

http://www.fairfaxcounty.gov/courts/circuit/restoration_of_driving_privileges.htm

WHERE DO I FILE MY PETITION FOR RESTORATION:

If DMV declared you a habitual offender, you must petition the circuit court in the city or county where you live. Out of state residents must petition the Circuit Court of the City of Richmond.

If you were declared a habitual offender by a court, you may file your petition in the court where you were declared a habitual offender or in the circuit court in the city or county where you live.

If you determine that the appropriate jurisdiction is the Fairfax County Circuit Court you may appear in person or mail your documents for filing to:

**Fairfax County Circuit Court
Attention: Civil Intake – 3rd Floor
4110 Chain Bridge Road
Fairfax, Virginia 22030**

The documents **must** be filed at the third floor Civil Intake counter of the Clerk's office. The appropriate filing and service fees must be paid at that time. The Petition(s) will then be assigned a Law Number(s).

At the time of filing the petition(s), the **Petitioner** should also set a hearing date. The hearing may be set on a **FRIDAY, 10:00 a.m. Motions Docket**, no sooner than forty-five (45) days from the time the petition is filed, by filing the appropriate *yellow Friday Motions Docket Praecept/Notice form*.

The petition(s) and notice must be served on the Office of the Commonwealth Attorney of Fairfax County and the Commissioner of the Division of Motor Vehicles.

WHAT MUST BE FILED:

1. **PETITION FOR RESTORATION SETTING FORTH THE LEGAL BASIS FOR RESTORATION:** An original and 4 copies of the Petition must be filed.
2. **CURRENT DMV TRANSCRIPT OF YOUR DRIVING RECORD:** An original driving transcript obtained from Division of Motor Vehicles and 4 copies must be filed.
3. **FRIDAY MOTIONS DOCKET PRAECIPE/NOTICE FORM – 10:00 A.M. :** An original praecipe notice form and 4 copies setting the hearing date no sooner than 45 days from the time of filing.
4. **PROPOSED ORDER**
5. **VASAP EVALUATION IF APPLICABLE:** An original VASAP evaluation must be filed.

If filing a Petition based on DWI-Third Offense or if Habitual Offender Determination was based at least in part on offense convictions for DWI, a VASAP evaluation is required. If the evaluation report is unavailable at the time of filing, the report must be submitted to the court at least ten days prior to the hearing date. The evaluation must be dated no earlier than ninety (90) days before the hearing date.

FILING FEES:

STYLE OF CASE: *Your name* versus Commonwealth of Virginia
FILING FEE: \$66.00 for each petition
SERVICE FEE: \$24.00 Total Service fee on the DMV and Commonwealth Attorney
TOTAL FILING FEE: **\$90.00**

(All filing fees & sheriff service fees should be made payable to Clerk of the Circuit Court)
Acceptable forms of payment cash, certified check or money order

If you have a conviction of Driving while Intoxicated-Third Offense and have been declared a Habitual Offender, you are required to file a Petition and Order for Restoration of Driving Privilege-Habitual Offender and Third Offense. These are two separate petitions and orders.

HEARING DATE:

The Petitioner must bring a proposed order to the hearing setting forth the requested relief, a current copy of your driving transcript and if applicable a VASAP evaluation. The VASAP evaluation must be dated within ninety days of the hearing date. The current driving transcript must be dated within thirty days of the hearing date.

If the Court grants a restricted license, it is the Petitioner's responsibility to make sure that the Restricted Operators License Worksheet is accurately completed and submitted to the Court. The Judge will sign the Order granting the restricted license and the worksheet stating what restrictions have been granted and forward the file to the Clerk's Office for preparation of the Restricted License. The completed Restricted License will then be submitted to the Judge that granted the petition for signature.

The Restricted license and certified copy of the Court Order will not be available to be picked up by the Petitioner until the process of preparing the license has been completed. The Petitioner will be contacted by the Clerk's Office when the license is available for pick up.

